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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,874	04/12/2004	Robert Paul Linse	003709.00002	1799
22907 7590 07/18/2007 BANNER & WITCOFF, LTD. 1100 13th STREET, N.W. SUITE 1200 WASHINGTON, DC 20005-4051			EXAMINER SMITH, MATTHEW J	
			ART UNIT 3637	PAPER NUMBER
			MAIL DATE 07/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/821,874

Applicant(s)

LINSE, ROBERT PAUL

Examiner

Matthew J. Smith

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 5/10/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the channel non-parallel sidewalls (claim 20) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "200", Figures 5-7.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 8, 12, 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoffman et al. (5953874).

Hoffman et al. '874 disclose, in Fig. 18, a footing comprising: a first end, a second end and a longitudinal axis extending between the first and second ends; an elongated channel 20' having a longitudinal axis extending substantially parallel to and spaced from the footing longitudinal axis; the channel having a base and first and second sidewalls extending upwardly away from the base; the sidewalls extending from the base such that the first sidewall is free of being parallel with the second sidewall; a slot 22' extending within the footing, the slot having a longitudinal axis that extends at an angle to the channel longitudinal axis; the slot having a base extending in a horizontal plane occupied by the channel base; the slot extending substantially perpendicular to the channel; the footing includes first and second outer sidewalls that extend at an angle from the footing upper surface to the footing base; one footing end having a trapezoidal shaped cross section; and the slot having a base extending in a horizontal plane occupied by the channel base.

Claims 20, 22, 24, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoffman et al. (6125597).

Hoffman et al. '597 disclose a footing comprising: a first end, a second end and a longitudinal axis extending between the first and second ends; an elongated channel 46 having a central longitudinal axis extending between the first and second ends, the channel having a base and non-parallel sidewalls 48 extending upwardly from the base toward the footing upper surface; the channel center spaced a first distance from a first outer sidewall of the footing and a second distance from a second outer sidewall of the footing, the first distance being greater than the second distance (Fig. 5); a passage 50 for receiving an anchoring rod, the passage extending through a portion of the footing from an outer surface of a sidewall to the footing base; and the passage has an opening extending along the first outer sidewall outer surface and an opening extending along the base.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-7, 10, 11, 13-15, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. '874 in view of Hoffman et al. '597.

Hoffman et al. '874 disclose the invention substantially as claimed but not the footing longitudinal axis equally spaced from the footing first and second outer sidewalls, the channel longitudinal axis spaced closer to the first outer sidewall than to the second outer sidewall, a passage 50 for receiving an anchoring rod, the passage extending through a portion of the footing from an outer surface of a sidewall to the base, the passage having an opening extending along the first outer sidewall outer surface and an opening extending along the base, the channel sized to receive a portion of a support stand base and a portion of a skirting panel, or the channel includes a base and first and second sidewalls extending upwardly away from the channel base at angles to the base such that the channel sidewalls are not parallel.

Hoffman et al. '597 show the footing longitudinal axis equally spaced from the footing first and second outer sidewalls; the channel longitudinal axis spaced closer to the first outer sidewall than to the second outer sidewall (Fig. 5); a passage 50 for receiving an anchoring rod, the passage extending through a portion of the footing from an outer surface of one of the sidewalls to the base; the passage having an opening extending along the first outer sidewall outer surface and an opening extending along the base; the channel sized to receive a portion of a support stand base and a portion of a skirting panel 16; the channel includes a base and first and second sidewalls extending upwardly away from the base of the channel at angles to the base such that the sidewalls of the channel are not parallel (Fig. 8).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the Hoffman et al. '874 footing with the features of the Hoffman et al. '597 footing in order to use the '874 footing for a skirting panel.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. '874 in view of Dickinson, Jr. (7062885).

Hoffman et al. '874 disclose the invention substantially as claimed but not the slot is sized to receive a wedge.

Dickinson, Jr. depicts a providing a wedge 7 to stabilize a panel 12.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to insert a wedge in the Hoffman et al. '874 slot in order to stabilize a structure inserted into the '874 channel.

Claims 21, 23, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. '597 in view of Hoffman et al. '874.

Hoffman et al. '597 disclose the invention substantially as claimed but not a slot extending within the footing at an angle perpendicular to the channel longitudinal axis,

the first and second outer sidewalls extend at an angle from the footing upper surface to the footing base, or one of the ends of the footing having trapezoidal shaped cross section.

Hoffman et al. '874 present a slot 22' extending within the footing at an angle perpendicular to the channel longitudinal axis; the first and second outer sidewalls extend at an angle from the footing upper surface to the footing base; and a footing ends having a trapezoidal shaped cross section.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the Hoffman et al. '597 footing with the features of the Hoffman et al. '874 footing in order to use the '597 footing for a deck construction.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Butler, Jr. (6141936) and Triplett (6345474) portray footing blocks.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Smith whose telephone number is 571-272-7034. The examiner can normally be reached on T-F, 8-3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lanna Mai
Supervisory Patent Examiner
Art Unit 3637



MJS *MJS*
11 July 2007